

CALIFORNIA STATE PERSONNEL BOARD

Date of Issue: July 20, 1988

MEMO TO: ALL STATE AGENCIES AND EMPLOYEE ORGANIZATIONS

SUBJECT: Screening candidates who are eligible for appointment.

From time to time, questions are raised regarding the appropriateness of developing and administering selection devices (written tests; performance tests; supplemental applications, etc.) which will be used to screen eligibles certified from employment lists or persons applying for transfer or reinstatement. Generally, any screening process that is based on job-related criteria should enhance merit selection.

The purpose of the formal selection process (centralized, decentralized, and delegated testing) is to establish eligible lists from which departments may choose qualified persons to fill positions. Although various laws and rules govern the formal selection and certification processes, there are few relating to the hiring discretion that appointing authorities have for choosing from among those eligible for appointment. The primary concerns in the hiring decision are: (1) selection of a well-qualified person for the job; (2) prevention of unlawful discrimination; and (3) accomplishment of affirmative action hiring goals when deficiencies are present.

The Federal Uniform Guidelines on Employee Selection Procedures regulate procedures used to select an individual for a job. These include informal procedures such as job or hiring interviews. The Uniform Guidelines prohibit the use of any selection procedure that produces adverse impact unless it can be demonstrated that the device is job related.

When determining the appropriateness of or necessity for supplemental or informal screening devices subsequent to establishment of the eligible list, the following questions should be considered:

1. Why is additional testing necessary? (Note: Generally, it should not be necessary to test for knowledge, skills and abilities already tested for in the formal examination process.)
2. Are the individuals on the eligible list unsuitable for the job(s)? Why?
3. Is the formal examination deficient? In what way? Should the formal examination plan be modified?
4. Is the correct classification being used? Would another class be more appropriate? Should a new class be established?

5. Does the department believe additional testing is necessary because, although the "generalist" class is appropriate, some positions require a specific expertise? Should a "specialist" class be established?

Careful consideration of questions such as these may lead to the identification and correction of a problem and obviate the need for supplementary screening devices. However, when supplemental screening is deemed necessary, the same basic selection principles that govern formal examinations should be followed in the administration of any other screening device. For example, you must avoid discriminatory questions, and you should measure only those job related knowledges/skills/abilities the competitor should possess prior to hire and not those which will be developed during the probationary period.

Departments are reminded that Government Code Section 12946 and regulations of the Fair Employment and Housing Commission require that records of employment practices be maintained for a minimum of two years. This includes, but is not limited to, applications and interview notes of applicants who are not hired and materials used in the selection of an appointee. Ethnic and disability information provided by an applicant via an application for employment must not be made available to persons responsible for hiring decisions. Government Code Section 19705 states that ethnic data on an individual applicant shall not be made available to any interviewer or any officer or employee empowered to make or influence a civil service appointment of such individual.

The Personnel Board does not require departments to obtain prior approval of informal screening devices. However, as part of its appellate function, the Personnel Board may accept and resolve complaints regarding their use when discrimination is alleged.

In a June 20, 1986, pink memorandum, the Personnel Board stated that civil service test administration should not be contracted out to non-State entities. This restriction is based on two beliefs. First, such contracts rarely would meet the provisions of Government Code Section 19130 governing personal service contracts. Second, the establishment of civil service eligible lists has a regulatory component and as such, it is in the public interest to have the function performed directly by State Government. The second factor does not apply to the exercise of discretionary authority to make an appointment which by law has been given to each appointing power. Therefore, in those rare instances where a contract conforms to the provisions of Section 19130, it is permissible to contract out informal selection procedures used to screen those candidates which have been declared eligible under the provisions of the Civil Service Act. This permissible area for contracting does not, however, extend to any procedure (e.g., background investigation) that can result in an individual's name being withheld from certification from an

eligible list.

Departments requiring assistance with the Federal Uniform Guidelines on Employee Selection Procedures may contact our Test Validation and Construction Unit at (916) 445-5056. Questions regarding the use of selection devices should be directed to the Affirmative Action and Merit Oversight Analyst assigned to your department.

/s/
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Chief Policy Division